

retary of the department in which the Coast Guard is operating shall notify the master of such vessel that the vessel may not enter or operate in the navigable waters of the United States or transfer cargo in any port or place under the jurisdiction of the United States, unless—

(1) the Secretary of State has made a determination under subsection (a)(2); or

(2) the Secretary of the department in which the Coast Guard is operating allows provisional entry of the vessel, or transfer of cargo from the vessel, under subsection (f).

(f) **PROVISIONAL ENTRY OR CARGO TRANSFER.**—Notwithstanding any other provision of this section, the Secretary of the department in which the Coast Guard is operating may allow provisional entry of, or transfer of cargo from, a vessel, if such entry or transfer is necessary for the safety of the vessel or persons aboard.

(g) **RIGHT OF INNOCENT PASSAGE AND RIGHT OF TRANSIT PASSAGE.**—This section shall not be construed as authority to restrict the right of innocent passage or the right of transit passage as recognized under international law.

(Added and amended Pub. L. 116–283, div. G, title LVXXXV [LXXXV], §8508(1), Jan. 1, 2021, 134 Stat. 4755.)

Editorial Notes

REFERENCES IN TEXT

Sections 3 and 205(a)(1)(A) of the North Korea Sanctions and Policy Enhancement Act of 2016, referred to in subsecs. (a)(2)(A)(i)(I) and (c)(1)(B), (C), are classified to sections 9202 and 9225(a)(1)(A), respectively, of Title 22, Foreign Relations and Intercourse.

CODIFICATION

Section, as added and amended by Pub. L. 116–283, is based on section 16 of Pub. L. 92–340, as added Pub. L. 115–44, title III, §315(a), Aug. 2, 2017, 131 Stat. 948, which was formerly classified to section 1232c of Title 33, Navigation and Navigable Waters, repealed by Pub. L. 115–282, title IV, §402(e), Dec. 4, 2018, 132 Stat. 4264, then transferred to this title and renumbered as this section effective upon the enactment of such Pub. L. 115–282 and notwithstanding such repeal.

AMENDMENTS

2021—Pub. L. 116–283, §8508(1)(A), transferred section 16 of Pub. L. 92–340 to this title and renumbered it as this section. See Codification note above.

Subsec. (b). Pub. L. 116–283, §8508(1)(B)(i), substituted “section 70001(a)(5)” for “section 4(a)(5)” in introductory provisions.

Subsec. (c)(2). Pub. L. 116–283, §8508(1)(B)(ii), substituted “periodically” for “not later than 180 days after the date of the enactment of this section, and periodically thereafter.”

Subsec. (e). Pub. L. 116–283, §8508(1)(B)(i), substituted “section 70001(a)(5)” for “section 4(a)(5)” in introductory provisions.

Subsec. (h). Pub. L. 116–283, §8508(1)(B)(iii), struck out subsec. (h). Text read as follows: “In this section, the term ‘foreign vessel’ has the meaning given that term in section 110 of title 46, United States Code.”

SUBCHAPTER IV—DEFINITIONS, REGULATIONS, ENFORCEMENT, INVESTIGATORY POWERS, APPLICABILITY

§ 70031. Definitions

As used in subchapters I through III and this subchapter, unless the context otherwise requires:

(1) The term “marine environment” means—
(A) the navigable waters of the United States and the land and resources therein and thereunder;

(B) the waters and fishery resources of any area over which the United States asserts exclusive fishery management authority;

(C) the seabed and subsoil of the Outer Continental Shelf of the United States, the resources thereof, and the waters superjacent thereto; and

(D) the recreational, economic, and scenic values of such waters and resources.

(2) The term “Secretary” means the Secretary of the department in which the Coast Guard is operating, except that such term means the Secretary of Transportation with respect to the application of this chapter to the Saint Lawrence Seaway.

(3) The term “navigable waters of the United States” includes all waters of the territorial sea of the United States as described in Presidential Proclamation No. 5928 of December 27, 1988.

(Added Pub. L. 115–282, title IV, §401(a), Dec. 4, 2018, 132 Stat. 4261; amended Pub. L. 116–283, div. G, title LVXXXV [LXXXV], §8507(a)(4), Jan. 1, 2021, 134 Stat. 4753.)

Editorial Notes

REFERENCES IN TEXT

Presidential Proclamation No. 5928, referred to in par. (3), is set out under section 1331 of Title 43, Public Lands.

AMENDMENTS

2021—Pub. L. 116–283 substituted “I through III” for “A through C” in introductory provisions.

§ 70032. Saint Lawrence Seaway

The authority granted to the Secretary under sections 70001, 70002, 70003, 70004, and 70011 may not be delegated with respect to the Saint Lawrence Seaway to any agency other than the Great Lakes St. Lawrence Seaway Development Corporation. Any other authority granted the Secretary under subchapters I through III and this subchapter shall be delegated by the Secretary to the Great Lakes St. Lawrence Seaway Development Corporation to the extent the Secretary determines such delegation is necessary for the proper operation of the Saint Lawrence Seaway.

(Added Pub. L. 115–282, title IV, §401(a), Dec. 4, 2018, 132 Stat. 4261; amended Pub. L. 116–260, div. AA, title V, §512(c)(6)(F), Dec. 27, 2020, 134 Stat. 2757; Pub. L. 116–283, div. G, title LVXXXV [LXXXV], §8507(a)(5), Jan. 1, 2021, 134 Stat. 4753.)

Editorial Notes

AMENDMENTS

2021—Pub. L. 116–283 substituted “I through III” for “A through C”.

2020—Pub. L. 116–260 substituted “Great Lakes St. Lawrence Seaway Development Corporation” for “Saint Lawrence Seaway Development Corporation” in two places.

§ 70033. Limitation on application to foreign vessels

Except pursuant to international treaty, convention, or agreement, to which the United States is a party, subchapters I through III and this subchapter shall not apply to any foreign vessel that is not destined for, or departing from, a port or place subject to the jurisdiction of the United States and that is in—

- (1) innocent passage through the territorial sea of the United States; or
- (2) transit through the navigable waters of the United States that form a part of an international strait.

(Added Pub. L. 115-282, title IV, §401(a), Dec. 4, 2018, 132 Stat. 4261; amended Pub. L. 116-283, div. G, title LVXXXV [LXXXV], §8507(a)(6), Jan. 1, 2021, 134 Stat. 4753.)

Editorial Notes

AMENDMENTS

2021—Pub. L. 116-283 substituted “I through III” for “A through C” in introductory provisions.

§ 70034. Regulations

(a) IN GENERAL.—In accordance with section 553 of title 5, the Secretary shall issue, and may from time to time amend or repeal, regulations necessary to implement subchapters I through III and this subchapter.

(b) CONSULTATION.—In the exercise of the regulatory authority under subchapters I through III and this subchapter, the Secretary shall consult with, and receive and consider the views of all interested persons, including—

- (1) interested Federal departments and agencies;
- (2) officials of State and local governments;
- (3) representatives of the maritime community;
- (4) representatives of port and harbor authorities or associations;
- (5) representatives of environmental groups;
- (6) any other interested persons who are knowledgeable or experienced in dealing with problems involving vessel safety, port and waterways safety, and protection of the marine environment; and
- (7) advisory committees consisting of all interested segments of the public when the establishment of such committees is considered necessary because the issues involved are highly complex or controversial.

(Added Pub. L. 115-282, title IV, §401(a), Dec. 4, 2018, 132 Stat. 4261; amended Pub. L. 116-283, div. G, title LVXXXV [LXXXV], §8507(a)(7), Jan. 1, 2021, 134 Stat. 4753.)

Editorial Notes

AMENDMENTS

2021—Pub. L. 116-283 substituted “I through III” for “A through C” in subsecs. (a) and (b).

Statutory Notes and Related Subsidiaries

SAFETY OF SPECIAL ACTIVITIES

Pub. L. 116-283, div. G, title LVXXXIII [LXXXIII], §8343, Jan. 1, 2021, 134 Stat. 4710, provided that:

“(a) IN GENERAL.—The Secretary of the department in which the Coast Guard is operating shall conduct a 2-year pilot program to establish and implement a process to—

- “(1) establish safety zones to address special activities in the exclusive economic zone;
- “(2) account for the number of safety zones established for special activities;
- “(3) differentiate whether an applicant who requests a safety zone for such activities is—
 - “(A) an individual;
 - “(B) an organization; or
 - “(C) a government entity; and

“(4) account for Coast Guard resources utilized to enforce safety zones established for special activities, including—

- “(A) the number of Coast Guard or Coast Guard Auxiliary vessels used; and
- “(B) the number of Coast Guard or Coast Guard Auxiliary patrol hours required.

“(b) BRIEFING.—Not later than 180 days after the expiration of the 2-year pilot program, the Commandant [of the Coast Guard] shall brief the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate regarding—

- “(1) the process required under subsection (a); and
- “(2) whether the authority to establish safety zones to address special activities in the exclusive economic zone should be extended or made permanent in the interest of safety.

“(c) DEFINITIONS.—In this section:

“(1) SAFETY ZONE.—The term ‘safety zone’ has the meaning given such term in section 165.20 of title 33, Code of Federal Regulations.

“(2) SPECIAL ACTIVITIES.—The term ‘special activities’ includes—

“(A) space activities, including launch and reentry, as such terms are defined in section 50902 of title 51, United States Code, carried out by United States citizens; and

“(B) offshore energy development activities, as described in section 8(p)(1)(C) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(p)(1)(C)), on or near a fixed platform.

“(3) UNITED STATES CITIZEN.—The term ‘United States citizen’ has the meaning given the term ‘eligible owners’ in section 12103 of title 46, United States Code.

“(4) FIXED PLATFORM.—The term ‘fixed platform’ means an artificial island, installation, or structure permanently attached to the sea-bed for the purpose of exploration or exploitation of resources or for other economic purposes.”

SAFETY ZONES FOR PERMITTED MARINE EVENTS

Pub. L. 114-120, title III, §305, Feb. 8, 2016, 130 Stat. 54, provided that: “Not later than 6 months after the date of the enactment of this Act [Feb. 8, 2016], the Secretary of the department in which the Coast Guard is operating shall establish and implement a process to—

- “(1) account for the number of safety zones established for permitted marine events;
- “(2) differentiate whether the event sponsor who requested a permit for such an event is—

- “(A) an individual;
- “(B) an organization; or
- “(C) a government entity; and

“(3) account for Coast Guard resources utilized to enforce safety zones established for permitted marine events, including for—

- “(A) the number of Coast Guard or Coast Guard Auxiliary vessels used; and
- “(B) the number of Coast Guard or Coast Guard Auxiliary patrol hours required.”

§ 70035. Investigatory powers

(a) SECRETARY.—The Secretary may investigate any incident, accident, or act involving